

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN JEFF PATTISON**, on January 23, 2003 at 8 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Jeff Pattison, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Edward Butcher (R)
Rep. John Musgrove (D)
Sen. Linda Nelson (D)
Rep. Rick Ripley (R)
Sen. Debbie Shea (D)

Members Excused: None.

Members Absent: None.

Staff Present: Kelly Gorin, OBPP
Gary Hamel, Legislative Branch
Elaine Olsen, Committee Secretary
Doug Schmitz, OBPP

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape time stamp refers to the material which follows.

Committee Business Summary:

Hearing & Date Posted: Fish Wildlife and Parks Overview,
1/23/2003
Executive Action: None.

{Tape: 1; Side: A; Approx. Time Counter: 1 - 12}

Dan Ellison, Chief, Administration and Finance Division, Fish Wildlife and Parks(FWP), said that during the month of December more than 95,000 hits were recorded of the Department website. The Administration and Finance Division provides services related to budget, accounting, and mail. In addition the Division provides administrative support for the entire Department which has personnel located across the state.

Dan Ellison said that the Division provides financial management critical to the operation of FWP by tracking 57 fund types. About 30 percent of the Department funding is from federal sources. The funds must be managed with adherence to federal requirements, and the Department is audited for financial compliance. The Accounting and the Financial Aid sections manage funding from various federal programs for the eight different program areas in the Department. Procurement and Property Management are responsible for agency's properties across the state.

EXHIBIT(jnh14a01)

EXHIBIT(jnh14a02)

Dan Ellison said that one of Administration and Finance's main responsibilities is centralized administrative support. Human Resources is responsible for payroll and record keeping for 600 full-time and more than 200 seasonal or temporary employees. The Bureau handles the safety program, awards and recognition, broadband pay, and bargaining with the wildlife and warden units.

Dan Ellison said that Information Technology(IT) is responsible for the Automated Licensing System(ALS), the Department's statewide network, and for services for those employees who are not a part of the statewide network. Licensing is located in Administration and Finance. Over \$30 million in licences are sold each year.

{Tape: 1; Side: A; Approx. Time Counter: 12 - 18}

Dan Ellison said some of the tasks related to the programs include oversight of a \$60 million annual budget. The Division works closely with other Division administrators and the Regional staff to track the budget. Revenue-estimating is required on 57 separate accounts, many of which are State Special Revenue. The Division allocates and monitors the \$12 million in federal funds that relate primarily to sport fish and wildlife habitat. The Department has a full-time federal aide coordinator because

managing the funds requires a great deal of regulation and oversight. All state and federal accounting standards are implemented within this Division. The Division supports comprehensive IT services for Regions, local staff and the ALS.

Dan Ellison said most license agents are happy with the ALS, although the Department is aware that some problems did exist at first. Through December more than 1.3 million licenses were sold through ALS. More than 200,000 applications for special permits were handled centrally through the licensing staff using ALS.

SEN. TASH asked if some of the retail agents were located out of state. **Dan Ellison** said some out-of-state vendors are authorized to sell Montana licenses.

REP. MUSGROVE said two license agents in his region had approached him with problems related to voided transactions and the agent's fee. **Dan Ellison** said he would look into the specific situation.

SEN. BUTCHER asked if the Department is working toward selling licenses online. **Dan Ellison** said the agency is testing the final coding necessary to enable the Department to sell some licenses online.

{Tape: 1; Side: A; Approx. Time Counter: 18 - 26}

SEN. BUTCHER commented that problems might arise when small sporting good shops are cut out of the loop when licenses are sold online. The businesses often depend on selling merchandise to sportsmen who come into the shops to purchase hunting and fishing licenses. **Dan Ellison** said that constituents are requesting the convenience of online sales, but the Department does recognize that such sales might have an impact on local businesses. License agents do receive \$0.50 for each license transaction. **Chris Smith, FWP**, said the Department has been working with an advisory committee throughout the process of automating the sale of licenses. Several license agents are on the committee. Residents will be required to purchase their Conservation License at the beginning of each license year in person from an agent. This will assist the Department in avoiding some license fraud issues, and it will help to maintain the relationship between the local license agent and the resident sportsman.

{Tape: 1; Side: A; Approx. Time Counter: 26 - 30}

Dan Ellison said the nonresident licenses sold over the internet will exclude those license types that require a carcass tag.

Dan Ellison said the Administration and Finance Division is responsible for managing the Department's statewide fleet of vehicles. The Division also manages the shop at the Custer Avenue site where routine vehicle maintenance takes place. The Department's fixed costs are handled by the Division also.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 5}

Dan Ellison said the Division is funded 80 percent by State Special Revenue with the balance of funds being derived from a variety of federal sources. Operations' expenses make up about two-thirds of the budget, and personal services comprise most of the balance.

REP. RIPLEY asked about the executive request for \$147,888 of General License funds to pay additional commissions. **Dan Ellison** said the decision package(DP) would be part of his budget discussion.

DP101

Dan Ellison said that in the 2001 Session, the Legislature established a \$2 resident/\$10 nonresident Hunter Access Fee which must be paid before any hunting license can be sold. License agents receive a \$0.50 fee for selling those permits, and that amount was not reflected in the Department's base budget. The DP reflects the cost of paying that transaction fee. The LFD does not believe that this sale constitutes a license transaction and therefore, the license agent should not receive a fee for the sale.

Gary Hamel commented that according to the legal counsel for the LFD, those additional fees on the Conservation License do not constitute a transaction under the current statute, and the license agents should not be paid an additional fee. The Migratory Bird Harvest Survey should be considered in the same manner. Neither transaction is the result of a separate license, permit or certificate having been sold.

Dan Ellison said the Department feels that the agents should be reimbursed for the time and effort taken in handling the Hunter Access and the Migratory Bird Survey. **SEN. BUTCHER** commented that it appeared the license agents are performing a service that would have to be afforded by the Department in one way or another. **SEN. SHEA** said it appeared that the agents were

performing a service that warranted reimbursement. The question is how the agents can be reimbursed within the law.

{Tape: 1; Side: B; Approx. Time Counter: 5 - 13}

Gary Hamel said a federal law requires that the Survey be completed before a Migratory Waterfowl Stamp is sold thus making the Survey part of that transaction. **SEN. BUTCHER** asked if the Survey is mandated, why is there a problem with the process.

Gary Hamel said the legal opinion is based on the premise that no additional fee is due to the agents because the Survey is a part of the sale of the Waterfowl Stamp.

REP. RIPLEY asked if agency Regional offices receive a transaction fee for selling licenses. **Dan Ellison** said that the sale of all licenses is routine business for FWP offices, and no transaction fee is paid to the Regions. The license prices are the same at retail outlets as they are at Regional offices.

DP102

Dan Ellison said that seasonal overtime is paid in the License Bureau and the Accounting Bureau during peak processing periods. The request is for about \$16,000 in each year of the biennium for a present law adjustment.

{Tape: 1; Side: B; Approx. Time Counter: 13 - 18}

DP104

Dan Ellison said DP104 is for authority to provide ten percent of the commission on the auction proceeds of the Big Horn Sheep license to the selling entity, the Foundation for North American Wild Sheep. The balance of the funds goes into the Big Horn Sheep Account for sheep habitat and preservation of the species. Because the final amount of the auction proceeds is unknown, the Department is requesting authority for up to \$30,000 to be paid to the selling entity.

DP105

Dan Ellison said DP105 is a request for \$6,000 in the second year of the biennium to fund a required property inventory.

{Tape: 1; Side: B; Approx. Time Counter: 18 - 24}

DP103

Dan Ellison said that DP103 is a new proposal for an additional .5 FTE for accounting function support staff.

DP106

Dan Ellison said DP106 is a request for \$75,000 in legislative contract authority(LCA) in the Administration and Finance Division.

{Tape: 1; Side: B; Approx. Time Counter: 24 - 30}

Proprietary Funds

Dan Ellison said the request is for approval of the rates applied to the storage of records and the dispensing of uniforms, supplies and equipment at the warehouse. The revolving fund is not-for-profit, and a 60-day balance is maintained. The projects are billed to cover the expense. The Duplicating Center provides support to program areas with the printing of brochures and other materials. The Department is asking for a one-half of one percent increase on some of the duplicating processes.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 6}

REP. RIPELY asked who printed the license regulations. **Dan Ellison** replied that license regulations are not printed at the Duplicating Center and that the contract for printing is let for bid through the State competitive bid process. He said he would find out who has the printing contract this year. **SEN. SHEA** asked for clarification on the Publications and Graphics office. **Dan Ellison** said that when the size or type of printing job is too large for the Duplicating Center, the Department can contract with the State Publications and Graphics Division.

Dan Ellison said the agency is requesting approval of the proposed proprietary rates for the Equipment and Enterprise Fund. The Department maintains a fleet of highway vehicles and three fixed-wing and three rotary aircraft. **CHAIRMAN PATTISON** asked about the contracting for services beyond the work done with the Department aircraft. He requested a list of contract rates.

Dan Ellison summarized by stating that the Division is comprised of a lot of dedicated employees who believe strongly in their mission to support the program areas. The crew is competent and knowledgeable, and they do a very good job.

{Tape: 2; Side: A; Approx. Time Counter: 6 - 9}

Chris Hunter, Administrator, Fisheries Division, FWP, said the mission of the Fisheries Division is to provide recreational opportunity for anglers and to preserve all aquatic species in the state for future generations. The four basic elements of the

program are fisheries management, habitat protection and enhancement, fishing access and aquatic education.

EXHIBIT (jnh14a03)

{Tape: 2; Side: A; Approx. Time Counter: 9 - 21}

Chris Hunter said that in the early 1970s a FWP employee found that when sections of the Madison River were not stocked, more fish were found in the stream. The Department implemented the management of wild trout, and the successful program created interest internationally. Management of wild trout demands habitat preservation, regulation, and population monitoring. Monitoring fish populations is done for two weeks twice a year. The section of the river is electro shocked at night, and the fish are gathered in. The fish are anesthetized, weighed and measured, a scale is taken for aging, and each fish is marked.

Chris Hunter said the Department maintains nine fish hatcheries, one of which is for warm-water species. About 800 waters in the state are stocked with hatchery fish. The Department has an aggressive program to ensure the health of the hatchery fish. Demand for more and larger fish is increasing. **SEN. BUTCHER** asked what waters were stocked. **Chris Hunter** said that lakes, reservoirs and ponds are stocked. Streams are stocked only in programs such as the effort to restore the West-slope Cutthroat.

SEN. BUTCHER asked about the survival rate of stocked fish.

Chris Hunter said that the survival rate varies with the size of the fish and the conditions of the habitat. **REP. RIPLEY** asked if the Department contracted with private hatcheries. **Chris Hunter** said concerns about the health of the fish restricts the agency's use of private hatcheries. The Division does provide the private entities with fish-health services. **SEN. NELSON** asked if the low water levels in Fort Peck Reservoir impacted the fish populations. **Chris Hunter** said the bait fish that the pike and walleye feed on spawn in the springtime in the weeds in shallow water. These species depend on weed growth and a rising pool of water.

CHAIRMAN PATTISON commented about new technology that had been demonstrated at Montana State University(MSU) which involves the use of lasers to track fish populations. **Chris Hunter** said radio tracking is used by Division biologists.

SEN. BUTCHER asked if the Division raised bass and croppie in the hatcheries. **Chris Hunter** said the warm-water fish are raised at the Miles City hatchery. **SEN. BUTCHER** asked if a landowner

stocked fish from the State hatcheries in private ponds, would the pond have to be open to public fishing. **Chris Hunter** said if FWP provides the fish, then the landowner has to allow public access. It is permissible to obtain fish from out-of-state entities, but FWP will inspect the health of those fish before they are planted.

{Tape: 2; Side: A; Approx. Time Counter: 21 - 30}

Chris Hunter said aquatic nuisance species which are often present as a result of illegal stocking are a concern in the State. Aquatic plants are also impacting Montana waters. The Division is working to educate boaters about the concerns. The Division Management Plan has been approved by the United States Fish and Wildlife Service (USFWS).

CHAIRMAN PATTISON asked how the preventative part of the program would be implemented. **Chris Hunter** said the Division has a recording on the "Weather Information" dial-up lines. The signs giving this information on how to access this information are located at state borders. Educational brochures are distributed through license agents. The Division has sought the cooperation of officials who work on the fishing tournaments. The expense of utilizing a disinfectant dip or application for boats is prohibitive.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 6}

SEN. BUTCHER commented that perhaps the Department could work with the Department of Transportation to require visitors to the State to pressure wash their boats as they enter the State.

Chris Hunter said that such efforts are included in the plan.

CHAIRMAN PATTISON asked if the states in the region with known contaminations are requiring pressure washing. **Chris Hunter** said several regional groups from surrounding states are implementing those types of requirements.

Chris Hunter described the walleye egg-taking project at Fort Peck Reservoir. Mike Ruggles, fisheries biologist on Fort Peck Reservoir, organizes the entire month-long project which includes between 80 and 120 volunteers. The goal is to obtain 100 million eggs. Once the fry are hatched, about 50 million are planted back into the reservoir.

{Tape: 2; Side: B; Approx. Time Counter: 6 - 13}

Chris Hunter said habitat protection and enhancement are crucial to wild trout fisheries. The Stream Protection Act was passed in

Montana about 43 years ago and requires all governments in the state to obtain a permit before initiating any activity that will disturb any streambed or bank. FWP biologists work with counties and cities to review applications to try to make the projects meet the goal of the local government while still protecting the habitat. About 450 permits are issued each year.

Chris Hunter said the 310 Program is administered by the Conservation Districts and provides the permitting services for private landowners who are proposing a project that might impact the streambed or banks. FWP and the Conservation Districts complete inspections before the project can proceed. Several thousand requests are handled each year.

Chris Hunter said the Department has water rights related to State parks, fish hatcheries and wildlife management areas. In 1969 the Legislature authorized in-stream flow rights on 12 blue-ribbon trout streams. The Division works with local drought committees and watershed groups to protect the interests of all involved parties.

Chris Hunter said that the habitat improvement effort includes the Future Fisheries Improvement Program which the Legislature established to provide grant money to landowners for habitat improvement. A bill is being sponsored this Session to broaden the scope of the program.

EXHIBIT (jnh14a04)

SEN. TASH said he has worked with stream bank enhancement through the Future Fisheries program, and the cost is about \$5,000 a mile. The cost was shared with FWP and USFWS. Many landowners are aware of the benefits of stream bank stabilization projects but cannot afford the cost.

{Tape: 2; Side: B; Approx. Time Counter: 13 - 20}

Chris Hunter said that fishing access is a huge issue for anglers in Montana. The Fishing Access Sites (FAS) program is a cooperative program with the Parks Division. The Fisheries Division identifies the sites and purchases them; Parks provides the improvements and maintenance. The State has 320 sites which are minimally developed. Use has increased a great deal. Legislation passed last Session established a program which allows FWP to reimburse landowners for impacts resulting from allowing fishing access.

Chris Hunter stated that the Aquatic Education is a cooperative program with the Conservation Education Division and includes projects to educate anglers on fish identification and native species. In 2001, 400,000 anglers were licensed in Montana, and they enjoyed approximately 2.7 million angling days. Anglers contribute \$200 million annually to the State economy. **SEN. BUTCHER** questioned the possibility that the economic impact figures included in the survey totals were duplicated in other studies.

{Tape: 2; Side: B; Approx. Time Counter: 20 - 30}

Chris Hunter gave an overview of the Division budget for 2004. The primary funding sources are the General License account and federal funds. Some funding is derived from the Corps of Engineers for the management of the Murray Creek Fish Hatchery. The Warm Water Fish Stamp generates about one percent of the Division funding. Some funds are derived for paddlefish research from the Glendive Chamber of Commerce paddlefish roe project.

REP. RIPLEY asked for details on LCA. **Chris Hunter** said federal agencies will contract with the Division to perform work or to assist with projects. The Committee has to give the Division the authority to receive and expend the funds.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 10}

Chris Hunter said the paddlefish is a species of special concern. **SEN. BUTCHER** asked if the fish could be raised in a hatchery. **Chris Hunter** said at this time it appears the fish are reproducing at a sustainable rate. The FWP Commission did reduce the harvest numbers this season.

{Tape: 3; Side: A; Approx. Time Counter: 10 - 16}

Chris Hunter gave an overview of the Division DPs

DP306

Chris Hunter said that DP306 is a request for \$48,000 in FY04 and \$54,000 in FY05 to replace computers. Replacement is in accordance with the Department of Administration's ITSD four-year replacement schedule. **CHAIRMAN PATTISON** asked for confirmation that 62 computers were being replaced. He asked how the request was to be funded. **Chris Hunter** confirmed the number of computers being replaced and said the funding request was for 25 percent General License and 75 percent federal funds. **CHAIRMAN PATTISON** asked if it would be appropriate to pay for the computers from the Warm Water Fisheries Stamp. **Chris Hunter** said the computer

for the Fort Peck Hatchery could be purchased with money from the Warm Water Stamp fund. When computers are replaced they are often times utilized elsewhere. The Division has about 40 biologists and about 35 hatchery employees plus the support staff.

{Tape: 3; Side: A; Approx. Time Counter: 16 - 22}

REP. RIPLEY asked if the computers are disposed of through Surplus Property. **Dan Ellison** said SB131 from the 2001 Session established ITSD for the oversight of computer replacement, and it was ITSD that set the four-year replacement cycle for State agencies. It is difficult to obtain technical support for outdated software. For the types of databases the biologists access, the four-year replacement cycle can be critical. Computers are disposed of through the Surplus Property procedures. Often times the use that is left in an older computer is not compatible with the types of use Department employees require for their jobs. The Department often buys computers in bulk, and the new computers do come with the most current operating system.

CHAIRMAN PATTISON asked if the fishery's biologists need specific software for their use. **Chris Hunter** said that the biologists have developed a lot of their own software for some of the population studies and estimates they complete.

{Tape: 3; Side: A; Approx. Time Counter: 22 - 30}

DP307

Chris Hunter said the request would restore \$30,000 in funding for the stocking of fish at Echo Lake near Kalispell. Legislators from the Flathead area have brought the request forward in the past. **SEN. BUTCHER** asked how many fish would be planted. **Chris Hunter** said that, because of low water years, some sites have not been stocked. Fish that otherwise would have gone to other waters have been planted in Echo Lake. The largest number planted was 400,000. **REP. RIPLEY** commented that the LFD issue stated that the stocking has not been successful. **Chris Hunter** said the FWP biologist feel Echo Lake should be managed as a warm water fishery. The residents want to see rainbow trout stocked in the Lake. The trout are eaten by the bass and the pike.

Director Hagener said that over the last four bienniums, the Department has not proposed this funding, but the funding is put into the budget through the Legislative process. **SEN. NELSON**

asked if the budget item was put in by the Subcommittee.

Director Hagener said that in the last two bienniums, the funding has been added to the budget by the Senate Finance and Claims Committee.

DP309

Chris Hunter said the DP was a request for approval of the internal service rate adjustment for vehicles.

DP310

Chris Hunter said that DP 310 is a request for \$200,000 to fund all of the hatchery operations. The demand is growing, especially for larger fish. The amount of food and space required to raise a larger fish is great. Fish food prices, utilities, and the cost of transporting the fish have increased in price.

{Tape: 3; Side: B; Approx. Time Counter: 1 - 6}

CHAIRMAN PATTISON asked about the funding for the DP. **Chris Hunter** said that the funding is 75 percent Dingle Johnson funding with a 25 percent State Special Revenue match required. **SEN. BUTCHER** asked about the total cost to run the Miles City Hatchery. **Chris Hunter** said the Miles City operation costs \$350,000.

{Tape: 3; Side: B; Approx. Time Counter: 6 - 10}

DP311

Chris Hunter said DP311 addressed two separate items. The request is for \$20,000 in each year of the biennium for stream flow gauging, a cooperative program with the United States Geological Survey(USGS). The USGS operates 19 stream gauges throughout the state, operates thermographs to record water temperatures, and provides technical information for water leases. The number of gauges and thermographs has been reduced as costs have increased.

REP. MUSGROVE asked for clarification on the funding. **Chris Hunter** said USGS and FWP each pay half of the costs.

{Tape: 3; Side: B; Approx. Time Counter: 10 - 15}

Chris Hunter said the second item in the DP is a request for authority to expend funding from the Corps of Engineers for the Murray Springs Hatchery. The Corps pays the Department to operate the hatchery, and the primary species of fish raised there is Kamloops rainbow trout.

{Tape: 3; Side: B; Approx. Time Counter: 15 - 21}

DP312

Chris Hunter said that DP312 is a request for \$40,000 in funding for the State to participate in the Native Species Landowner Conservation Programs. The funds would be from State Special Revenue and would be used to match grant monies from the Landowner Incentive Program(LIP). Grants provide technical and financial assistance to private landowners for habitat protection and restoration of species that are being considered for listing as endangered or at-risk such as grayling, cutthroat or bull trout.

SEN. BUTCHER asked how the program would benefit the anglers.

Chris Hunter said that if cutthroat are listed as an endangered species, additional regulations would be imposed on the anglers. Most of the work would be done on streams rather than ponds.

CHAIRMAN PATTISON asked if the landowner would have to allow public access. **Chris Hunter** said that the landowner would not have to allow access. In most cases less fishing pressure on the rehabilitated area would be advantageous to the species.

{Tape: 3; Side: B; Approx. Time Counter: 21 - 28}

DP313

Chris Hunter said DP313 was a request for a base adjustment to restore \$35,000 in funding for equipment replacement. The equipment includes hatchery trucks, boats, motors, trailers, and some fish tanks. In response to SEN. BUTCHER's comment that he would like to see a grand total for equipment instead of the piece-meal approach, **Chris Hunter** said that the Division is requesting a total of \$88,000 for equipment in this DP and in the DP for the Fort Peck Fish Hatchery. **Kelly Gorin, OBPP**, pointed out that the total for the Department's equipment requests is \$1 million for the biennium and is listed on page C1 of the Budget Book.

DP314

Chris Hunter said that DP314 is a request for \$9,200 to restore funding for overtime.

{Tape: 4; Side: A; Approx. Time Counter: 1 - 9}

SEN. BUTCHER asked for clarification on the request. **Chris Hunter** stated that the Division hires part-time fish technicians in the summer season. They are eligible for overtime. **SEN.**

BUTCHER asked if comp time could be used rather than paying overtime. **Dan Ellison** said the Fair Labor Standards Act requires the Department to pay overtime for any time more than 40 hours a week. A lot of employees are hired on the contract basis. The Department attempts to manage the FTE through full-time employees, part-time employees and seasonal employees. **Gary Hamel** said that one FTE is utilized by the Department in many different projects and positions. The Committee may want to look at alternatives. **Dan Ellison** said that four or five individual employees may be charged against one FTE throughout the year.

{Tape: 4; Side: A; Approx. Time Counter: 9 - 14}

DP301

Chris Hunter said that DP301 is a request for funding for two additional fish technicians. **SEN. BUTCHER** asked what the technicians are paid. **Chris Hunter** said the individuals are paid about \$24,550. The \$90,000 total includes operations and personal services. **Gary Hamel** said the breakdown of expenses is listed in the Budget Book. **SEN. TASH** asked about the hiring criteria. **Chris Hunter** said the hiring is done by the standard State procedure.

{Tape: 4; Side: A; Approx. Time Counter: 14 - 18}

DP302

Chris Hunter said an omnibus bill which would provide \$7.8 million in additional funding for the construction of the Fort Peck Fish Hatchery is close to being approved by Congress. The Department is requesting funding for a hatchery manager who would serve in an oversight capacity during construction. The request includes some equipment purchases. Funding would come from the Warm Water Fisheries Stamp. **CHAIRMAN PATTISON** asked who developed the plans for the hatchery. **Chris Hunter** said the Army Corps of Engineers had designed the facility. The Fish Hatchery Bureau Chief was involved in the plan development.

{Tape: 4; Side: A; Approx. Time Counter: 18 - 23}

DP303

Chris Hunter said DP303 relates to LCA for work the Division does on a contract basis for the federal government. Last biennium about \$1.8 million was authorized, and this request is for \$2.7 million in spending authority each year of the biennium through LCA. The Division anticipates receiving about \$1 million from the Fisheries Restoration and Irrigation Mitigation Act. **CHAIRMAN PATTISON** asked for clarification on the funding

procedures. **Sue Daly, FWP**, said the funds will pass through a federal account using the LCA authorized by the Committee. The Department incurs the expenses and is then reimbursed by the federal government through the account.

{Tape: 4; Side: A; Approx. Time Counter: 23 - 28}

DP304

Chris Hunter said DP304 is for roving creel surveys which assist the Department in determining fishing pressure, success rates and angler satisfaction. Anglers on Fort Peck Reservoir have requested more creel surveys on that body of water. For the survey to be statistically valid the survey methods must adhere to a strict protocol.

DP305

Chris Hunter stated that DP305 relates to a bill sponsored by REP. FUCHS for fishing access site improvements. The spending authority was approved one-time-only for \$50,000 annually for two years. The program was designed to last for four years. The Department is requesting authority for the final two years of the program.

{Tape: 4; Side: A; Approx. Time Counter: 28 - 31}

DP308

Chris Hunter said that DP308 would restore a one-time-only authorization to conduct a study of riparian communities on prairie streams. The Department has contracted with MSU to conduct the study. The request is for funding through calendar year 2003, when the contract is to end.

{Tape: 4; Side: B; Approx. Time Counter: 1 - 12}

Gary Hamel introduced Todd Everts, legal counsel for the Legislative branch. Todd Everts will address the issue brought forth by the LFD related to the payment of a transaction fee to license agents for handling the Hunter Access Fee and the Migratory Bird Harvest Survey.

Todd Everts, Legal Counsel, LFD, said Greg Petesch, Code Commission for the LFD, had ruled that the collection of the Hunter Access Fee by licensing agents does not meet the statutory definition of a transaction. **Todd Everts** said the Migratory Bird Harvest Survey does not fall under the definition of a transaction.

Bob Lane, Chief Legal Counsel, FWP, said his opinion was based on what the Department was requiring the license agents to do. The statute provides that a transaction includes the sale of any license, permit or certificate as described by the Department. The handling of the Hunter Access Fee and the Survey both fall under the literal language of the statute and also fall within the spirit of the language. Agents are asked to complete a number of separate, discreet procedures. The collection of the Hunter Access Fee is another discreet act on the part of the license agent.

Bob Lane said that by the Department asking the agents to handle the Migratory Bird Harvest Survey, they have contracted with the vendors to provide a service. Agents should be paid for the services they provide. The Department is entitled to enter into a contract with the agents and to reimburse them for the work they do.

SEN. SHEA asked for details on how the agents charge the Department for the transactions. **Dan Ellison** said that for each transaction, the agent can collect \$0.50. When a sportsman purchases licenses and permits, the agent is paid \$0.50 for each purchase. Sportsmen are required to complete the Survey when they purchase the Waterfowl Stamp.

REP. MUSGROVE asked for additional information on the licensing computer system. **Dan Ellison** said the system is under development. The prime contractor, World Com, provides, installs and maintains the hardware. The application resides on servers hosted by the ISTD. The vendor pays a fee, receives training, and must have dial-up capability.

CHAIRMAN PATTISON announced that the Committee would take executive action on the Department budget next Thursday. He encouraged Committee members to do some research, ask some questions and frame decisions. He encouraged Committee members to ask for additional information from the LFD and FWP staff.

ADJOURNMENT

Adjournment: 12 P.M.

REP. JEFF PATTISON, Chairman

ELAINE G. OLSEN, Secretary

JP/EGO

EXHIBIT (jnh14aad)